

NOT PRECEDENTIAL

IN THE UNITED STATES COURT
OF APPEALS
FOR THE THIRD CIRCUIT

NO. 07-3919

IN RE: ARTHUR D'AMARIO, III
Petitioner

On Petition for a Writ of Mandamus

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Submitted Pursuant to Third Circuit LAR 34.1(a)

May 22, 2009

BEFORE: RENDELL, STAPLETON and ALARCON,*
Circuit Judges

(Opinion Filed: June 2, 2009)

*Hon. Arthur L. Alarcon, Senior United States Circuit Judge for the Ninth Circuit, sitting by designation.

OPINION OF THE COURT

PER CURIAM:

This proceeding was initiated by the filing in this Court of a "Petition For A Writ Of Mandamus" seeking "release" of the petitioner from his confinement in a federal penal institution.

A petition for a writ of mandamus is not a substitute for an appeal of a criminal conviction. Nor is it a substitute for a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2255, which can properly be filed only in the District Court. Accordingly, this Court cannot grant the relief sought.

The petition will be dismissed without prejudice to petitioner's right to pursue his appeal from his judgment of conviction currently pending in this Court (No. 07-1955) or to any post-conviction relief petitioner may seek in the District Court.